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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,900	04/21/2005	Denis Fauconnier	Q103120	8868
23373 7590 07/14/2008 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
EXAMINER				
CASCA, FRED A				
ART UNIT		PAPER NUMBER		
2617				
MAIL DATE		DELIVERY MODE		
07/14/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/500,900

**Applicant(s)**

FAUCONNIER ET AL.

**Examiner**

FRED A. CASCA

**Art Unit**

2617

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 25 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

/VINCENT P. HARPER/  
Supervisory Patent Examiner, Art Unit 2617

Applicant's arguments with respect to claims 1-39 have been fully considered but they are not persuasive.

In response to arguments that "Odenwalder does not describe either of its control channels as being dedicated to a single subscriber", the examiner respectfully disagrees and asserts that Odenwalder clearly teaches the concept of dedicating a control channel to a single subscriber (col. 4, lines 50-67, "generating a first control channel comprising an indicator that a traffic channel is to be shared ... enabling the subscriber station to demodulate the traffic channel", note that the information provided in the control channel includes traffic channel information e.g., parameters, and further this information is provided to the subscriber so that the subscriber can demodulate traffic channel and tune to the particular channel parameters).

Further, Odenwalder refers to channelization of cellular systems such as FDMA, TDMA and CDMA (col. 1, line 40 through col. 2, line 55). In such cellular systems, a control channel is inherently dedicated to a targeted subscriber terminal so that a call set up is performed. Applicants are referred to *Wireless Communications and Networks* by William Stallings (ISBN #: 0-13-040864-6). Particularly, pages 289 and 291 of Stallings define the concepts of control channel as follows: "Control channels are used to exchange information having to do with setting up and maintaining calls and with establishing a relationship between a mobile unit and the nearest BS."

Thus, according to Odenwalder's col. 4, lines 50-67 and col. 1, line 40 through col. 2, line 55, Odenwalder clearly discloses its control channels as being dedicated to a single subscriber.

In response to arguments that "Odenwalder does not have its base station select one of plural sets of shared channels and then use a dedicated channel to advise the terminal of which set has been selected", it is noted that the features upon which the applicant relies (e.g., select one of plural sets of shared channels and then use a dedicated channel to advise the terminal of which set has been selected) are not cited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *in re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). However, examiner still respectfully disagrees and asserts that the dedicated channel is the control channel of Odenwalder. Odenwalder clearly defines the concept of a control channel (dedicated channel) advising the terminal of which set has been selected (col. 4, lines 50-67, "generating a first control channel comprising an indicator that a traffic channel is to be shared and a parameters of the a traffic channel," note that the control channel has information about the traffic channel so that proper modulation can take place by the subscriber, thus... enabling the subscriber station to demodulate the traffic channel", note that channel parameters inherently include the set of frequencies (channels) that have been assigned to terminal so that the terminal would know which frequencies to tune to).

Further, Odenwalder refers to channelization of cellular systems such as FDMA, TDMA and CDMA (col. 1, line 40 through col. 2, line 55). In such cellular systems, a control channel is inherently dedicated to a targeted terminal to inform the terminal which traffic channels have been assigned to the terminal so that the terminal can tune to. Applicants are referred to *Wireless Communications and Networks* by William Stallings (ISBN #: 0-13-040864-6). Particularly, page 291 of Stallings define the above concept as follows: "the MTSO selects an available traffic channel within each BS's cell and notifies each BS, which in turn notifies its mobile unit (Figure 10.6d). The two mobile units tune to their respective assigned channels."

Thus, Odenwalder clearly discloses its control channels advising subscriber terminals about which traffic channels set has been assigned to them.

In response to arguments that "As to the indication of a selected set of share channels, the examiner notes that Odenwalder teaches using a control channel to indicate that a traffic channel is to be shared. But it is noted that this indication is sent to all terminals. There is no indication that the shared channel is to be used for any particular communications session with a terminal", the examiner respectfully disagrees and asserts that in Odenwalder clearly defines that the shared channel is to be used for any particular communications session with a terminal (col. 4, lines 50-67, "control channel comprising identity of a subscriber station, and information enabling a subscriber station to demodulate a traffic channel", note that a channel (set of frequency bands) are assigned to a single subscriber station).

In response to arguments that the examiner is unreasonably ignoring the concepts of "sets," the examiner respectfully disagrees and asserts that support and explanation with regards to "sets" was provided on page 10 of the previous office action lines 10-18 (office action dated February 25 2008). The examiner still disagrees with applicants with regards to sets and asserts that Odenwalder's sets of channels are inherently disclosed in the discussion of multiple access technologies e.g., FDMA, TDMA (Odenwalder, col. 1). It is well known in the art that multiple access systems (e.g., FDMA and TDMA) comprise many clusters of cells, where each cell is allocated a set of frequency channels. Thus, a cluster of seven cells would have seven sets of channel frequencies. Thus, Odenwalder's multiple access systems include several sets of channels as claimed by applicant. For example in CDMA system a set of shared frequencies are dedicated to one single subscriber. Thus, the bandwidth that is assigned or dedicated to a single subscriber terminal in any of the CDMA, TDMA or FDMA system of Odenwalder clearly reads on the "list of shared channels" claimed by applicants.